

**REMARKS**

In the Office Action mailed March 2, 2007, the Office Action rejected claim 6 under 35 U.S.C. §112. The Office Action also rejected claims 1, 2, 4 and 5 under 35 U.S.C. § 102. In addition, the Office Action rejected claims 3, 6-8, 12-16, 33-40 and 44-48 under 35 U.S.C. § 103. Claims 1, 6, 12, 18-19, 22, 25, 33, 44, 50-51, 54 and 56-57 have been amended. Claims 17 and 49 have been canceled.

Applicants respectfully respond to this Office Action.

**I. Claim 6 Rejected Under 35 U.S.C. § 112**

The Office Action rejected claim 6 under 35 U.S.C. § 112 as being indefinite. In particular, the Office Action asserts that the claim elements “third code” and “fourth code” of claim 6 have insufficient antecedent basis since there is no mention of first and second codes. See Office Action, page 2. Claim 6 has been amended to depend from claim 4. Claim 4 includes the claim elements of “a first code” and “a second code”. As such, Applicants submit that claim 6 particularly points out and distinctly claims the subject matter. Accordingly, Applicants request that the rejection of claim 6 be withdrawn.

**II. Claims 1, 2, 4 and 5 Rejected Under 35 U.S.C. § 102**

The Office Action rejected claims 1, 2, 4, and 5 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,432,800 to Kuroda et al. (hereafter, “Kuroda”). This rejection is respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the ... claim.” Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, “the reference must be enabling and describe the applicant’s claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.” In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the claims at issue are patentably distinct from Kuroda. Kuroda does not disclose all of the elements in these claims.

Claim 1 has been amended to recite “wherein the processed data sets are encoded in relation to a first threshold with an associated first probability.” Support for this amendment may be found in Applicants’ specification, for example, page 8, paragraph [1024]. Kuroda does not disclose this claim element.

The Office Action asserts that Figure 4 of Kuroda discloses “processing each of a plurality of data sets to generate a processed data set and a parity block for each data set.” See Office Action, page 3. However, Figure 4, and the accompanying description, does not disclose “wherein the processed data sets are encoded in relation to a first threshold with an associated first probability.”

Instead, Kuroda states “[t]he frame structure shown in FIG. 4 differs from the one shown in FIG. 2 in that the blocks are so rearranged that the blocks are sent out dispersedly.” Kuroda, col. 9, lines 65-67. Rearranging blocks in order to send them out dispersedly does not disclose processing a plurality of data sets “in relation to a first threshold with an associated first probability.” Rather, Kuroda discloses that the blocks are rearranged “for the purpose of preventing the 82 parity blocks 222 from being sent out in concentration.” Kuroda, col. 9, line 67 – col. 10, line 1. Preventing parity blocks from being sent out in concentration does not disclose processing each of the plurality of data sets “in relation to a first threshold with an associated first probability.”

In addition, Kuroda states “in the case of the frame structure shown in FIG. 4, there are used four different types of block synchronizing codes.” Kuroda, col. 10, lines 10-12. Using multiple types of codes also does not disclose “wherein the processed data sets are encoded in relation to a first threshold with an associated first probability.” Instead, Kuroda discloses that using four different types of codes “is for the purpose of increasing the number of points of change within the frame.” Kuroda, col. 10, lines 12-13. Increasing the number of points change also does not disclose processing each of the plurality of data sets “in relation to a first threshold with an associated first probability” as claimed by Applicants.

In view of the foregoing, Applicants respectfully submit that claim 1 is patentably distinct from Kuroda. Accordingly, Applicants respectfully request that the rejection of claim 1 be withdrawn.

The Office Action rejected claims 2, 4 and 5 under 35 U.S.C. § 102(b) based on Kuroda. This rejection is respectfully traversed. It is well settled that if an independent claim is patentable over the cited art, then all claims depending from the independent claim are similarly patentable. M.P.E.P. § 2143.03 (“If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious”). In this case, claims 2, 4 and 5 depend either directly or indirectly from claim 1. As noted above, claim 1 is patentable over Kuroda. Accordingly, as the independent claim is patentable over this reference, dependent claims 2, 4 and 5 (which depend from independent claim 1) are similarly allowable. Favorable consideration and withdrawal of this rejection is respectfully requested.

### **III. Claims 3, 6-8 and 12-16 Rejected Under 35 U.S.C. § 103**

The Office Action rejected claims 3, 6-8 and 12-16 under 35 U.S.C. § 103(a) as being unpatentable over Kuroda in view of U.S. Patent No. 5,828,677 to Sayeed et al. (hereafter, “Sayeed”). This rejection is respectfully traversed.

The M.P.E.P. states that

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure.

The initial burden is one the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

M.P.E.P. § 2142.

Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

Claims 3 and 6-8 depend either directly or indirectly from claim 1. Accordingly, Applicants respectfully request that the rejection of claims 3 and 6-8 be withdrawn for at least the same reasons as those presented in connection with claim 1 because Kuroda and Sayeed, alone or in combination, do not teach or suggest all of the elements of claim 1.

Claim 12 has been amended to recite “selecting a set of bits from the parity of blocks in accordance with the received signals . . . and encoding the selected set to generate the at least one packet.” Support for this amendment may be found in Applicants’ specification, for example, canceled claim 17; page 10, paragraph [1027] and page 12, paragraph [1036]. Kuroda, alone or in combination with Sayeed, does not teach or suggest these claim elements.

The Office Action indicates that claim 17 includes allowable subject matter. See Office Action, page 12. The subject matter of claim 17 has been included in claim 12. As such, Applicants respectfully submit that claim 12 is patentably distinct from the cited references. Accordingly, Applicants respectfully request that the rejection of claim 12 be withdrawn.

Claims 13-16 depend either directly or indirectly from claim 12. Accordingly, Applicants respectfully request that the rejection of claims 13-16 be withdrawn for at least the same reasons as those presented in connection with claim 12 because Kuroda and Sayeed, alone or in combination, do not teach or suggest all of the elements of claim 12.

#### **IV. Claims 33, 34, 36 and 37 Rejected Under 35 U.S.C. § 103**

The Office Action rejected claims 33, 34, 36 and 37 under 35 U.S.C. § 103(a) as being unpatentable over Kuroda in view of U.S. Patent No. 5,946,328 to Cox et al. (hereafter, “Cox”). This rejection is respectfully traversed. The standard to establish a *prima facie* case of obviousness is provided above. See M.P.E.P. § 2142.

Claim 33 has been amended in a similar manner as claim 1. The Office Action asserts that Figure 4 of Kuroda teaches processing each of a plurality of data sets. See Office Action, page 7. However, as previously explained, Kuroda does not teach or suggest “wherein the

processed data sets are encoded in relation to a first threshold with an associated first probability.”

The Office Action points to Cox to support the assertion that Cox teaches use of a storage medium. *Id.* The Office Action does not point to, and Applicants cannot find, where Cox discloses “wherein the processed data sets are encoded in relation to a first threshold with an associated first probability.” As such, Applicants submit that claim 33 is patently distinct from the cited references for at least the same reasons as those presented above in connection with claim 1. Accordingly, Applicants respectfully request that the rejection of claim 33 be withdrawn because Kuroda and Cox, alone or in combination, do not teach or suggest all of the claim elements of claim 33.

Claims 34, 36 and 37 depend either directly or indirectly from claim 33. Accordingly, Applicants respectfully request that the rejection of claims 34, 36 and 37 be withdrawn for at least the same reasons as those presented in connection with claim 33 because Kuroda and Cox, alone or in combination, do not teach or suggest all of the elements of claim 33.

**V. Claims 35 and 38-40 Rejected Under 35 U.S.C. § 103**

The Office Action rejected claims 35 and 38-40 under 35 U.S.C. § 103(a) as being unpatentable over Kuroda in view of Sayeed. This rejection is respectfully traversed. The standard to establish a *prima facie* case of obviousness is provided above. See M.P.E.P. § 2142.

Claims 35 and 38-40 depend either directly or indirectly from claim 33. Accordingly, Applicants respectfully request that the rejection of claims 35 and 38-40 be withdrawn for at least the same reasons as those presented in connection with claim 33 because Kuroda and Sayeed, alone or in combination, do not teach or suggest all of the elements of claim 33.

**VI. Claims 44-48 Rejected Under 35 U.S.C. § 103**

The Office Action rejected claims 44-48 under 35 U.S.C. § 103(a) as being unpatentable over Kuroda in view of Cox and in further view of Sayeed. This rejection is respectfully traversed. The standard to establish a *prima facie* case of obviousness is provided above. See M.P.E.P. § 2142.

Claim 44 has been amended to recite “the processor selects a set of bits from the parity blocks in accordance with the information provided by the receiver and encodes the selected set to generate the at least one packet.” Support for this amendment may be found in Applicants’ specification, for example, canceled claim 49; page 10, paragraph [1027] and page 12, paragraph [1036]. Kuroda, Cox and Sayeed, alone or in combination, do not teach or suggest this claim element.

The Office Action indicates that claim 49 includes allowable subject matter. See Office Action, page 12. The subject matter of claim 49 has been included in claim 44. As such, Applicants respectfully submit that claim 44 is patentably distinct from the cited references. Accordingly, Applicants respectfully request that the rejection of claim 44 be withdrawn.

Claims 45-48 depend either directly or indirectly from claim 44. Accordingly, Applicants respectfully request that the rejection of claims 45-48 be withdrawn for at least the same reasons as those presented in connection with claim 44 because Kuroda, Cox and Sayeed, alone or in combination, do not teach or suggest all of the elements of claim 44.

**VII. Claims 17-25 and 49-57 Objected**

The Office Action objected claims 17-25 and 49-57 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 12 and 44 have been amended to include the limitations of claims 17 and 49. Claims 18-25 depend either directly or indirectly from claim 12, and claims 50-57 depend either directly or indirectly from claim 44. As previously explained, claims 12 and 44 are patentably distinct from the cited references. As such, Applicants respectfully request that the objection of claims 18-25 and 50-57 be withdrawn because these claims depend from a patentable independent claim. See M.P.E.P. § 2143.03.

**REQUEST FOR ALLOWANCE**

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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